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6 *Attorneys for the United States*

7 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 JOSEPH HOLMES and

12 EMELIO ROCHESTER,

13 Defendants.

Case No. 2:20-mj-902-DJA

14  
15 ORDER to Continue the Preliminary  
16 Hearing (Third Request)

17 It is hereby stipulated and agreed, by and between Christopher Chiou, Acting United  
18 States Attorney, through Jim W. Fang, Assistant United States Attorney, Kathryn  
19 Newman, Assistant Federal Public Defender, counsel for Defendant Holmes, and Daniel  
20 Hill, Esq., counsel for Defendant Rochester, that the preliminary hearing in the above-  
captioned matter, previously scheduled for March 15, 2021, at 4:00 p.m., be vacated and  
continued until a time convenient to the Court, but no earlier than 30 days from the current  
setting.

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22 1. Federal Rule of Criminal Procedure Rule 5.1(d) provides that “[w]ith the  
23 defendant’s consent and upon a showing of good cause—taking into account the public  
24 interest in the prompt disposition of criminal cases—a magistrate judge may extend the time

1 limits [for preliminary hearings] one or more times.” Here, the parties desire to explore the  
2 potential to resolve this matter before defendants are formally charged by a criminal  
3 indictment.

4       2. In that regard, the government has provided defense counsels with limited  
5 Rule 16 discovery in order to facilitate pre-indictment resolution. The parties are in active  
6 plea negotiations and require more time to resolve this matter pre-indictment.

7       3. This continuance is not sought for the purposes of delay, but to allow the  
8 parties to thoroughly vet the case and reach an agreement as to the final resolution of this  
9 case.

10      4. Defendants are not in custody and agree to the continuance.

11      5. Denial of this request could result in a miscarriage of justice, and the ends of  
12 justice served by granting this request outweigh the best interest of the public and the  
13 defendants in a speedy trial.

14      6. The additional time requested by this stipulation is excludable in computing  
15 the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C.  
16 § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

17           DATED this 10th day of March, 2021.

18           CHRISTOPHER CHIOU  
19           Acting United States Attorney

20           s/Jim W. Fang  
21           JIM W. FANG  
22           Assistant United States Attorney  
23           *Counsel for the United States*

24           s/ Kathryn Newman  
25           KATHRYN NEWMAN  
26           Assistant Federal Public Defender  
27           *Counsel for Defendant Holmes*

28           s/ Daniel Hill  
29           DANIEL HILL, ESQ.  
30           *Counsel for Defendant Rochester*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

V.

Case No. 2:20-mj-902-DJA

JOSEPH HOLMES and

EMELIO ROCHESTER,

### Defendants.

## **FINDINGS AND ORDER**

Based on the pending Stipulation between the defense and the government, and good cause appearing therefore, the Court hereby finds that:

1. The parties desire to continue the preliminary hearing to facilitate pre-indictment resolution, and the government has provided defense counsels with limited Rule 16 discovery for that purpose. The parties are in active plea negotiations and require more time to resolve this matter pre-indictment. The Court finds good cause to continue the hearing to allow the parties to reach a pre-indictment resolution.

2. Both counsels for defendants and counsel for the government agree to the continuance.

3. Defendants are not in custody and agree to the continuance.

4. The continuance is not sought for the purposes of delay, but to allow the parties to thoroughly vet the case and reach an agreement as to the final resolution of this case.

5. Denial of this request could result in a miscarriage of justice, and the ends of justice served by granting this request outweigh the best interest of the public and the defendants in a speedy trial.

1       6. The additional time requested by this stipulation is excludable in computing  
2 the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C.  
3 § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

4           THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the  
5 above-captioned matter, previously scheduled for March 15, 2021, at 4:00 p.m., be vacated  
6 and continued to April 19, 2021, at 4:00 p.m., Courtroom 3A.

7           DATED this 11<sup>th</sup> day of March, 2021.



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9           HONORABLE DANIEL J. ALBREGTS  
10           UNITED STATES MAGISTRATE JUDGE

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